



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 10, 1998

Mr. Robert L. Flournoy  
Flournoy & Deaton  
P.O. Box 1546  
Lufkin, Texas 75902

OR98-3043

Dear Mr. Flournoy:

You ask this office to reconsider our decision in Open Records Letter No. 98-2147 (1998). Your request for reconsideration was assigned ID# 120223.

Open Records Letter No. 98-2147, which involved a request for information related to the 1994 Bond Street Improvements project, determined that the City of Lufkin (the "city") had not established the applicability of section 552.103 to the requested information. You now ask that we reconsider this determination and submit new information to support your section 552.103 claim. You submit what you say is a copy of the potential opposing party's written demand for arbitration and a copy of the city's response to that demand in which the city agrees not to proceed with arbitration until the project is substantially complete. You argue that the "project has now just been completed and under the terms of those letters, arbitration is imminent. The parties have been in settlement negotiations for approximately 30 days and continue to try to resolve all matters but it does not appear that settlement will occur."

The Open Records Act requires a governmental body to timely submit its arguments for withholding information. Gov't Code 552.303. Untimely submitted arguments may form the basis for withholding requested information only when the arguments provide a compelling reason to withhold the information, such as when the information is made confidential by law or when third party rights are implicated by the release of the information. *see Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); Open Records Decision No. 630 (1994). We do not believe that the city has provided a compelling reason to withhold the information requested in this case. Accordingly, we affirm Open Records Letter No. 98-2147.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings  
Deputy Chief  
Open Records Division

KHH/ch

Ref.: ID# 120223

Enclosures: Submitted documents

cc: Mr. Mark Clifton  
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P.O. Box 631030  
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(w/o enclosures)